IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

SECOND APPEAL NO. 865 OF 2005

Shri Shirala Walwa Vibhag Sahakari
Grahak Mandal Ltd. and anr.... Petitioner

versus

Sugrabai Gulab Shaikh & ors..... Respondent.

Shri. P.D.Dalvi for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 16TH JULY, 2007

P.C.;

1. The present appellant society is the original defendant. The plaintiff instituted a suit for declaration of title and recovery of possession. The appellant/defendant contended that the plaintiff had agreed to give the house property on lease and a sum of Rs.5000/- was paid towards rent. It is undisputed that the cheque was dishonoured, and the plaintiff did not receive any amount whatsoever. No agreement of tenancy exists. Both the courts below have categorically held that there was no agreement of lease and hence the question of applicability of Bombay Rent Act does not arise. The courts below have also held that as cheque for a sum of Rs.5000/- was dishonoured, assuming that there was some agreement in regard to lease, the agreement would be abinitio void.

The appellant has utterly failed to carve out any legal right to continue to possess the said property. Concurrent finding on facts recorded by the courts below does not call for any interference in the second appeal. No substantial question of law emerges for consideration. Hence the second appeal is summarily dismissed.

2. In view of the above, the civil application is also dismissed.

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